**Section 3002.410 Open Meetings Act Compliance**

a) Introduction

1) The Illinois Open Meetings Act [5 ILCS 120/1] sets forth *the public policy of the State of Illinois that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. It is also the public policy of the State that its citizens be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way.*

2) *It is the intent of the Act:*

A) *to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly;*

B) *to protect the citizen's right to know; and*

C) *that provisions for exceptions to the open meeting requirements be strictly construed against closed meetings.* [5 ILCS 120/1]

3) By means of this Section, the Board has established procedures to conduct its business in accordance with the Open Meetings Act.

b) Definitions

1) *"Employee" − A person employed by the Board whose relationship with* the Board *constitutes an employer-employee relationship under the usual common law rules, and who is not an independent contractor.* [5 ILCS 120/2(d)]

2) "Executive Director" – The Executive Director of the Procurement Policy Board.

3) *"Meeting" –* *Any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of* 3 *members of the Board held for the purpose of discussing Board business.* [5 ILCS 120/1.02]

4) "Recording Secretary" – Shall mean the Executive Director of the Procurement Policy Board or designee.

c) Quorum Requirements for Meetings by Physical Presence

The Board may conduct business only if there is a quorum established at a meeting. A quorum for the Board is 3 members of the Board. Three members must be physically present at a single location to constitute a quorum for purposes of conducting business of the Board. *If,* however, an open meeting of the Board *is held simultaneously at one of its offices* (or if its offices lack equipment for video conferencing, then in another location in a public building) *and one or more other locations in a public building, which may include other of its offices, through an interactive video conference and public notice is provided as required under the Open Meetings Act for all locations, then members physically present in those locations all count toward determining a quorum. "Public building" means any building or portion of a building owned or leased by any public body.* [5 ILCS 120/2.01]Action by the Board may only be taken so long as a quorum is present at the time the action is taken.

d) Attendance by a Means Other Than Physical Presence

1) *If a quorum of the members of the Board is physically present as required by* subsection (c), *a majority of the* quorum *may allow a member of that body to attend the meeting* (and participate in any discussion, vote or other action of the Board) *by other means if the member is prevented from physically attending because of:*

A) *personal illness or disability;*

B) *employment purposes or the business of the public body; or*

C) *a family or other emergency.* [5 ILCS 120/7(a)]

2) *If a member wishes to attend a meeting by other means, the member must notify the Recording Secretary of the Board before* *the meeting unless advance notice is impractical.*  *"Other means" shall mean by audio or video conference* or any additional means as from time to time allowed by statute. [5 ILCS 120/7(b)]

3) If a quorum is established pursuant to subsection (c), then a member attending by phone conference or other means allowed by this subsection (d) is not required to be located in a public building.

4) *The limitations of this subsection (d) shall not apply to closed meetings of the Board.* [5 ILCS 120/7(d)]

e) Meetings; Public Notice; Agenda; Regular Meetings; Special Meetings

1) Time of Meeting Generally. *All* open *meetings shall be held at specified times and places that are convenient and open to the public. No* *open meeting shall be held on a legal holiday unless the regular meeting day falls on that holiday.*  [5 ILCS 120/2.01]

2) Public Notice by Posting. Public notice shall be given by posting a copy of the notice at the principal office of the Board.

3) News Media Request. *Any news medium may file with the Executive Director of the Board an annual request for public notice of all meetings of the Board, and copies of the notice to be posted shall be given to those news media.* [5 ILCS 120/2.02(b)] The Executive Director shall maintain an updated list of all news media that have filed annual requests and shall be responsible for seeing that requesting news media receive the notices mandated by the Open Meetings Act and by this policy.

4) Regular Meetings. The Board shall hold regular meetings throughout the year in accordance with a schedule developed by the Chair of the Board.

A) Agenda of Regular Meetings. *An agenda for each regular meeting shall be posted in accordance with subsection (e)(2) at least 48 hours in advance of the holding of the meeting. However, this requirement shall not preclude the consideration of items not specifically set forth in the agenda.* Action may be taken on a non-agenda item only if germane to a subject on the agenda. *The validity of an action that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda.* [5 ILCS 120/2.02(a)]

B) Schedule of Regular Meetings. *At the beginning of each calendar year, the Executive Director, at the direction of the Chair, shall prepare and make available a schedule of all its regular meetings for such fiscal or calendar year, listing the times and places of such meetings.* [5 ILCS 120/2.02(a)]

C) Cancellation or Change in Regular Meeting Date. *If a regular meeting is cancelled or if a change is made in a regular meeting date, at least 10 days' notice of the change shall be given by publication in* the official State newspaper or *newspaper in general circulation in the area in which the Board functions. Notice of the change shall also be posted at the principal office of the Board. Notice of the change shall also be given to those news media that have filed with the* Executive Director *an annual request for notice of meetings.* [5 ILCS 120/2.03] A regular meeting of the Board may be cancelled or changed by the Chair.

D) Change in Location. The Chair may change the location of any regular meeting. Notice of the change shall be given in the same manner as a cancellation or change in a regular meeting as set forth in subsection (e)(4)(C). If the location change is only a change in the room number of the same public building, then no notice is necessary other than a posted notice placed at the originally scheduled room no later than at the time of the beginning of the scheduled meeting.

5) Special Meetings. Special meetings may be called by the Chair or at the request of any two of the members. The Chair shall designate the location of the special meeting, which shall be in either Springfield, Illinois or Chicago, Illinois. *Public notice of any special meeting shall be given at least 48 hours before the meeting.* [5 ILCS 120/2.02(a)]

A) Agenda of Special Meetings. *An agenda of a special meeting shall be included with the public notice of the meeting. However, the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda.* [5 ILCS 120/2.02(a)]

B) News Media Notice. *Those news media that have filed an annual request for notice shall be given the same notice of any special meeting in the same manner as is given to members of the Board, provided that those news media have given the Executive Director an address or telephone number within Illinois at which notice may be given.* [5 ILCS 120/2.02(b)]

6) Rescheduled or Reconvened Meetings. *Public notice of any rescheduled or reconvened meeting shall be given at least 48 hours before the meeting.*

A)Exception to Notice Requirement*. No public notice is required to be given of any reconvened meeting if the meeting was open to the public and either:*

i) *the meeting is to be reconvened within 24 hours; or*

ii) *an announcement of the time and place of the reconvened meeting is made at the original meeting and there is no change in the agenda.* [5 ILCS 120/2.02(a)]

B) Agenda of Rescheduled or Reconvened Meeting. *An agenda of a rescheduled or reconvened meeting shall also be included with the public notice of the meeting. However, the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda.* [5 ILCS 120/2.02(a)]

C) News Media Notice. *Those news media that have filed an annual request for notice shall be given the same notice of any rescheduled or reconvened meeting in the same manner as is given to members of the Board, provided that those news media have given the Executive Director an address or telephone number within Illinois at which notice may be given.* [5 ILCS 120/2.02(b)]

7) Emergency Meeting. Any emergency meeting may be called by the Chair or by request of any three members of the Board. The Chair shall designate the location of the emergency meeting, which shall be in Springfield, Illinois or Chicago, Illinois. *Notice of an emergency meeting shall be given as soon as is practicable. In any event, prior to an emergency meeting being held, notice shall be given to those news media that have filed an annual request for notice.* [5 ILCS 120/2.02(a)] *Those news media that have filed an annual request for notice shall be given the same notice of any emergency meeting in the same manner as is given to members of the Board, provided that those news media have given the Executive Director an address or telephone number within Illinois at which notice may be given.* [5 ILCS 120/2.02(b)]

f) Recording of Meeting

1) *Any person may record by tape, film or other means the proceedings at any open meeting,* provided oral or written notice is given to the Executive Director or the Chair of the Board prior to the start of the meeting. *Recording the proceedings shall be subject to the provisions of* subsection (f)(2) and the provisions of *Section 8-701 of the Code of Civil Procedure* [735 ILCS 120/8-701]. [5 ILCS 120/2.05] If notice has been given to the Executive Director or the Chair of the Board that a person will be recording the proceedings, the Executive Director or the Chair of the Board shall announce at the time the meeting is called to order that notice has been received that the proceedings of the meeting are being recorded.

2) *If any witness at any meeting required to be open under the Open Meetings Act refuses to testify on the grounds that he or she may not be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if motion pictures are to be taken, then the authority holding the meeting shall prohibit any such recording during the testimony of the witness. Nothing in this subsection (f) shall be construed to extend the right to refuse to testify at any meeting not subject to the provisions of Section 8-701 of the Code of Civil Procedure.* [5 ILCS 120/2.05]

g) Closed Meetings

1) Subject. The Board may hold closed meetings to consider subjects set forth in 5 ILCS 120/2(c), including but not limited to:

A) *The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Board, including hearing testimony on a complaint lodged against an employee to determine its validity* [5 ILCS 120/2(c)(1)];

B) *Collective negotiating matters between the Board and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees* [5 ILCS 120/2(c)(2)];

C) *The purchase or lease or sale of real property owned by the Board or being sought for the use of the Board and the setting of the sale or rent amount* [5 ILCS 120/2(c)(5) and (6)];

D) *Emergency security procedures and the use of personnel and equipment to respond to actual danger to the safety of employees, staff, or public property,* provided that a description of the actual danger shall be made a part of the motion to close the meeting [5 ILCS 120/2(c)(8)];

E) *Litigation, when an action against, affecting or on behalf of the Board has been filed and is pending before a court or administrative tribunal, or when the Board* *finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting* [5 ILCS 120/2(c)(11)];

F) *The classification and discussion of matters classified as confidential or continued confidential by the State Employees Suggestion Award Board* (see 20 ILCS 405/67.28) [5 ILCS 120/2(c)(20)]; and

G) *Discussion of minutes of closed meetings, whether for purposes of approval by the Board of the minutes or for purposes of semi-annual review of the minutes* [5 ILCS 120/2(c)(21)].

2) Procedure

A) Vote. *Upon the majority vote of a quorum of the Board present at an open meeting, the Board may hold a meeting closed to the public or may close a portion of a meeting to the public. The motion to close a meeting, or a portion thereof, shall state a citation to the specific exemption set forth in Section 2 of the Open Meetings Act. The vote of each member shall be taken by roll call vote, shall be publicly disclosed, and shall be recorded and entered into the minutes of the meeting.*

B) Subject. *Only topics specified in the vote to close may be considered during the closed meeting.*

C) Series of Meetings. *A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in the series involves the same particular matters and is scheduled to be held within no more than 3 months after the vote.* [5 ILCS 120/2a]

h) Minutes of Meetings

1) Open Meetings

A) Content. *The Board shall keep written minutes of all open meetings. The minutes shall include:*

i) *the date, time and place of the meeting;*

ii) *the members of the Board recorded as either present or absent, and whether the members were physically present or present by means of video or audio conference; and*

iii) *a summary of discussion on all matters proposed, deliberated, or decided and a record of any votes taken.* [5 ILCS 120/2.06(a)]

B) Public Inspection. *The minutes of any open meeting shall be available for public inspection within 7 days after the approval of the minutes by the Board.* [5 ILCS 120/2.06(b)]

C) An electric recording of a meeting may be taken by the Board for the sole purpose of assisting in the preparation of accurate minutes of the meeting. The recording itself shall not be retained and is not intended to be kept as the official record of the meeting. The written minutes as approved by the members of the Board shall be the only official record of the meeting intended to be preserved. The electronic recording is only for temporary purposes and is not appropriate for presenting for purposes of the Illinois State Records Act.

2) Closed Meetings

A) Content. *The Board shall keep both a verbatim recording and written minutes of all closed meetings. The minutes shall include:*

i) *the date, time and place of the meeting;*

ii) *the members of the Board recorded as either present or absent; and*

iii) *a summary of discussion on all matters proposed, deliberated or decided and a record of any votes taken.* [5 ILCS 120/2.06(a)]

B) Public Inspection. The minutes of any closed meeting shall be available for public inspection only after the Board determines, in accordance with subsection (h)(2)(C), that it is no longer necessary to protect the public interest or the privacy of an individual by keeping the minutes confidential.

C) Semiannual Review. *The Board shall semiannually review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session, that either:*

i) *the need for confidentiality still exists as to all or a part of those minutes; or*

ii) *the minutes or portions thereof no longer require confidential treatment and are available for public inspection.* [5 ILCS 120/2.06(d)]

i) Voting

Voting at any open meeting shall be by voice vote. No secret ballot shall be utilized.

(Source: Added at 32 Ill. Reg. 1153, effective February 1, 2008)